THE HON'BLE SRI JUSTICE N.V.RAMANA

Writ Petition No. 17400 of 2006

Date: 07.08.2007

Between:

Aided Pratibha High School, rep. by its Correspondent
Smt. V. Vasantha Kumari.

.....PETITIONER

AND

The Mandal Education Officer, Mandal Education Office,
Mahaboobnagar, Mahaboobnagar District and others.

....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V.RAMANA

Writ Petition No. 17400 of 2006

Order:

Questioning the action of the 1st respondent in not cancelling the deputation of the 3rd respondent from his office and not sending him back to the petitioner-school in spite of the instructions of

the 2nd respondent, the petitioner-school filed the present writ petition.

2. The brief facts are that the 3rd respondent was originally appointed as Secondary Grade Teacher in the petitioner-School. While so, the 2nd respondent issued proceedings, dated 22.10.2005, deputing the 3rd respondent to work in the office of the 1st respondent, and accordingly, the 3rd respondent was relieved on 29.11.2005, and he joined in the office of the 1st respondent on 30.11.2005. The petitioner states that because of the said deputation, the petitioner school is facing much difficulty in adjusting the teachers to various classes, and therefore, vide letter dated 04.04.2006, the petitioner requested the 1st respondent to cancel the deputation of the 3rd respondent and send him back to the petitioner-school. While so, the 2nd respondent issued

instructions to all the Mandal Education Officers and Head Masters to send back all those who are under their control on deputation to their parent school by 22.04.2006. Thereafter, the petitioner-school sent another letter dated 22.07.2006 to the 1st respondent requesting to cancel the deputation of the 3rd respondent and send him back to the petitioner-School, but as no action thereon has been taken by the 1st respondent, the petitioner filed the present writ petition.

3. The 1st and 2nd respondents filed counter stating that general instructions have been issued to repatriate the teachers, who are working on deputation to the parent department, and relieve them to join duty in their parent departments by 22.04.2006. It is stated that in the case of the 3rd respondent, an enquiry was conducted and the Deputy Educational Officer, Mahabubnagar, submitted his report dated 29.06.2006 stating that there is no congenial atmosphere for continuation of the 3rd respondent in the same school, and as such, the 3rd respondent may be surrendered to the Director of School Education, along with Secondary Grade Teacher Post, for alternative accommodation. Therefore, the 3rd respondent was deputed to work in the Mandal Education Officer with effect from 22.10.2005. Thereafter, the present writ petition has been filed, and pending disposal of the writ petition, interim orders were passed that 'if any proceedings are pending to transfer the 3rd respondent to any other school, it is open for the 1st and 2nd respondents to consider and pass appropriate orders. In pursuance of the said interim orders, the 3rd respondent and the Teachers' Association made

representations dated 02.11.2006 & 05.11.29006 respectively to transfer the

3rd respondent to Modern High School (Aided), Mahabubnagar. Thereafter, the 3rd respondent was deputed from the 1st respondent office to Modern High School (Aided), vide proceedings dated 23.11.2006, and presently he is working there. It is further stated that in violation of the directions of this Court on 22.12.2006 to release the salary of the 3rd respondent and contrary to the instructions issued by the Deputy Education Officer, the petitioner-school is not paying salary to the 3rd respondent. It is further stated that as per the interim directions of this Court dated 01.09.2006, proposals have been sent to the Director of School Education on 15.02.2007 proposing transfer of the 3rd respondent along with the post to the Modern High School (Aided) Mahabubnagar, by canceling his post from the petitioner-school, and orders are awaited.

4. The 3rd respondent filed counter-affidavit. Reiterating the counter averments, learned counsel for the 3rd respondent submits that because of the harassment meted out to him by the Correspondent of the petitioner-School, he made representation dated 22.10.2005 to the 2nd respondent to suspend the Correspondent of the petitioner-school and appoint Special officer for conducting an enquiry in the matter. As there is life threat to him at the instance of the Correspondent of the petitioner-School, on his request, the 2nd respondent issued proceedings dated 22.10.2005 deputing him to the 1st respondent office. He states that even after his deputation, the Correspondent of the petitioner-school is harassing him by not paying the TPF amount and salary

from the month of May, 2006 onwards. It is further stated that as per the directions of the Director of School Education, the 2nd respondent conducted an enquiry and submitted report, dated 12.07.2006, to the Director of School Education in respect of transfer of the

3rd respondent to any other Management Schools in Mahabub Nagar District. Thereafter, the Director of School Education issued proceedings dated 29.07.2006 to the 2nd respondent to indicate the name of aided school where there is need of a person with aided post for shifting the 3rd respondent from aided Prathibha Upper Primary School, for which the 2nd respondent wrote a letter dated 22.08.2006 to the Director of School Education submitting proposal in respect of the 3rd respondent, and is waiting for necessary orders from the Director of School Education.

5. A perusal of the entire material on record shows that the 3rd respondent was originally appointed as Secondary Grade Teacher in the petitioner-School. It seems that there are certain disputes between the management of the petitioner-school and the 3rd respondent, and because of the harassment made by the management of the petitioner-school, the matter was represented to the Teachers' Association. Based on the said representation, an enquiry was conducted and found that the management of the petitioner-school has harassed the 3rd respondent and there is no congenial atmosphere for the 3rd respondent to continue in the petitioner-school. Therefore, the 1st respondent issued proceedings dated 22.10.2005 deputing the 3rd respondent to the office of the 1st respondent. It is alleged that the management of

the petitioner-school committed certain irregularities and misappropriated the funds, which are not relevant for the purpose of this Case. Thereafter, on the representation of the 3rd respondent and the Teachers' Association, the 3rd respondent was again deputed to work in Modern High School, (Aided) Mabahubnagar, vide proceedings dated 23.11.2006 and a proposal was also sent to the Director of School Education dated 15.02.2007 proposing the transfer of the 3rd respondent along with the post to Modern High School (Aided) Mahabubnagar by canceling his post from Prathibha Aided School, Mabahubnagar, and awaiting for the orders of the Director of School Education .

6. Since the entire proceedings have been initiated after conducting a detailed enquiry and taking into consideration the congenial atmosphere and differences between the petitioner as well as the 3rd respondent, and also the harassment meted out towards the 3rd respondent by the management of the petitioner-School, no relief as sought for by the petitioner seeking to cancel the deputation of the 3rd respondent can be granted and the same has to be rejected. However, it is open for the petitioner-school to make a representation to the respondents concerned seeking to provide the post of Secondary Grade Teacher in view of the necessity, and on filing such representation, the respondents shall consider and dispose of the same and pass appropriate orders in accordance with law.

Accordingly, the Writ Petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 07.08.2007

sj